IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

MFA.No. 1300 of 2002(A)

OPMV.1023/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
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APPELLANT: PETITIONERS
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1. RAJAN S/O. SHEKHARAN, KOLLARAKANDY HOUSE
FEROKE POST, KOZHIKODE

2. LAKSHMI W/O. BALAN, DO. DO.

BY ADV. SRI.VINOD VALLIKAPPAN

RESPONDENTS: RESPONDENTS
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1. THENUTTE KALLINGAL MOIDEEN
S/O. ALAVI, KUZHIPANA HOUSE, OLAVATTUR POST,
KONDOTTY, MALAPPURAM.

2. ABDUL NAZER S/O. ALAVI, KUZHIPANA HOUSE,
OLAVATTUR POST, KONDOTTY, MALAPPURAM.

3. M/S. ORIENTAL INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, G.H.ROAD, KOZHIKODE.

BY ADV. SRI.MATHEWS JACOB FOR R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1300 OF 2002 ()

Dated this the 16th day of November, 2007

J U D G M E N T

KOSHY,J.

A 38 year old man died in a motor accident due to the negligence of the driver of the vehicle insured by the 3rd respondent Insurance company. Claim petition was filed by the elder brother and elder sister of the deceased. Since brother and sister are not dependents, tribunal did not award any compensation for loss of family contribution. But Rs.25,000/- was allowed towards hospital charges, transportation charges, funeral expenses, loss of love and affection together. We are of the view that even though the claimants were elder sister and brother, it cannot be stated that they are not the legal heirs of the deceased and an unmarried brother will not contribute any amount to them. It was also argued that brother of the deceased was not well and he was depending upon the deceased brother. Sister was also is living in the

family house. We are of the view that atleast Rs.25,000/- (the amount payable under Section 140) should be awarded to them for loss of family contribution which is apart from Rs.25,000/- already ordered under various heads. Therefore, in addition to the amount decreed by the tribunal, we award another Rs.25,000/-. Therefore, the 3rd respondent Insurance company is directed to deposit additional Rs.25,000/- with 7.5% interest from the date of application till its deposit and on deposit of the amount, appellants can withdraw the amount in equal instalments. With the above observations this appeal is partly allowed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

prp

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1300 OF 2002 (A)

J U D G M E N T

16th November, 2007